



HOUSE BILL 1144: Expand 1%/\$80 Rate for Mill Machinery

2013-2014 General Assembly

Committee:	House Finance	Date:	July 2, 2014
Introduced by:	Reps. Malone, Lewis, Starnes, Collins	Prepared by:	Trina Griffin
Analysis of:	PCS to First Edition H1144-CSSV-58		Committee Counsel

SUMMARY: *House Bill 1144 would allow certain companies engaged in the fabrication of metal work and secondary metals recyclers to qualify for the 1%/\$80 privilege tax that applies to purchases of certain machinery and equipment.*

The PCS deletes the contents of the original bill and substitutes a study provision directing the Revenue Laws Study Committee to study the scope and application of the privilege tax at the rate of 1% with an \$80 cap for purchases of mill machinery and other equipment.

CURRENT LAW & BILL ANALYSIS: The 2001 General Assembly enacted Article 5F in response to the requirement of the Streamlined Agreement that states must simplify their sales tax rates. The 2001 legislation repealed the 1% sales tax rate and \$80 per article cap imposed on mill machinery and replaced it with a privilege excise tax having the same rate. While the rate applies to a manufacturing industry or plant on purchases of mill machinery, the statute does not specifically define a "manufacturing industry" or "mill machinery." Over the years, the Department of Revenue, through a combination of administrative rule, case law, and interpretation of the Secretary developed guidance and criteria to determine the application of the tax. However, the criteria have not always been consistent or clear to taxpayers.

Since that time, the Article has been expanded to tax other machinery and equipment at the lower rate, so long as the machinery and equipment are capitalized for tax purposes under the Code by a company "primarily engaged" in certain kinds of business activities. This criterion is also undefined, and the Department is often faced with having to make a determination whether a company is primarily engaged in the named activity. The types of businesses eligible for the 1%/\$80 rate on certain machinery and equipment is as follows:

- A major recycling facility. (2005)
- A research and development company in the physical, engineering, and life sciences. (2006)
- A software publishing company. (2007)
- A datacenter.¹ (2007)
- An industrial machinery refurbishing company. (2008)
- A company located at a ports facility for waterborne commerce. (2011)

The PCS for House Bill 1144 directs the Revenue Laws Study Committee to study the scope and application of the privilege tax at the rate of 1% with an \$80 cap for purchases of mill machinery and other equipment and report its findings, along with any legislative recommendations, to the 2015 General Assembly.

EFFECTIVE DATE: This act is effective when it becomes law.

¹ This provision expires for sales occurring on or after July 1, 2015.

